



# Gift Acceptance Policies and Guidelines

*Reviewed and Revised June 9, 2021*

The McPherson County Community Foundation (Foundation), a not-for-profit organization organized under the laws of the State of Kansas, encourages the solicitation and acceptance of gifts to the Foundation for purposes that will help the Foundation to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the Foundation or for the benefit of any of its programs.

The Mission of the Foundation is: The McPherson County Community Foundation serves the common good for its residents, building strong communities by engaging people in philanthropy and developing a permanent endowment to provide resources, now and for generations to come.

## **1. Purpose of Policies and Guidelines**

The Board of Directors of the Foundation and its staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of the Foundation. It is the purpose of these policies and guidelines to govern the acceptance of gifts by the Foundation and to provide guidance to prospective donors and their advisors when making gifts to the Foundation. The provisions of these policies shall apply to all gifts received by the Foundation for any of its programs or services.

## **2. Use of Legal Counsel**

The Foundation will seek the advice of legal counsel in matters relating to acceptance of gifts where appropriate. Review by counsel is recommended for:

- a. review of closely held stock transfers that are subject to restrictions or buy-sell agreements
- b. review of documents naming the Foundation as Trustee
- c. review of all gifts involving contracts, such as bargain sales or other documents requiring the Foundation to assume an obligation
- d. review of all transactions with potential conflict of interest that may invoke IRS sanctions

e. and such other instances in which use of counsel is deemed appropriate by the Gift Acceptance Committee

### **3. Conflict of Interest**

All prospective donors shall be strongly urged to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

### **4. Publication of Gifts**

All gifts will be publicized in the quarterly newsletter and annual report unless the donor(s) request to remain anonymous. The donor's intention will be recorded on the Fund Establishment Checklist. If the gift is to be added to an existing fund, the donor must include a written request for anonymity.

### **5. Types of Funds**

Gifts to the unrestricted fund or to establish or add to one of the following types of funds are accepted: Donor Advised – the fund must adhere to the Donor Advised guidelines; Designated; Field of Interest; Scholarship; and Agency.

A minimum of \$10,000.00 must be donated to establish an endowed fund. An acorn account may be established with a \$100.00 gift; however, grants are not awarded from the fund until the corpus reaches the \$10,000.00 minimum according to the acorn account guidelines.

### **6. Restrictions on Gifts**

The Foundation will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. The Foundation will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the Foundation. The Gift Acceptance Committee of the Foundation shall make all final decisions on the restrictive nature of a gift, and its acceptance or refusal.

### **7. The Gift Acceptance Committee**

The gift acceptance committee shall consist of: Board Treasurer and two members of the Finance/Investment Committee and the President serving as an ad hoc member. The gift acceptance committee is charged with the responsibility of reviewing all gifts made to the

Foundation, properly screening and accepting those gifts, and making recommendations to the Board on gift acceptance issues where appropriate.

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## 8. Types of Gifts

A. The following gifts are acceptable:

1. Cash
2. Tangible Personal Property
3. Bequests
4. Real Estate
5. Life Insurance
6. Charitable Gift Annuities
7. Charitable Remainder Trusts
8. Charitable Lead Trusts
9. Retirement Plan Beneficiary Designations
10. QCD – IRA Qualified Charitable Deduction
11. Publicly traded Securities and Closely-held Securities
12. Life Insurance Beneficiary Designations
13. Remainder Interests in Property
14. Oil, Gas, and Mineral Interests
15. Bargain Sales
16. Cryptocurrencies

B. The Board of Directors authorizes the President or any officer to accept on behalf of the Foundation gifts of cash and marketable publicly traded securities. All other gifts require prior approval of the Board of Directors.

C. As a general rule, all gifts shall be sold upon receipt unless otherwise directed by the Finance and Investment Committee. The Donor acknowledges that cryptocurrency and the exchanges on which the cryptocurrencies trade may be volatile, and that the proceeds received by the Community Foundation may be different (higher or lower) from the appraised value, fair market value, or other measure of the value of the cryptocurrency at the time of the gift. The following criteria govern the acceptance of each gift form:

**1. Cash:** Cash is acceptable in any form. The donor should convert currency to check/money order if possible. Checks/Money orders shall be made payable to The Foundation and shall be delivered to the Foundation's administrative offices.

**2. Tangible Personal Property:** Gifts of tangible personal property will be examined in light of the following criteria:

- Does the property fulfill the mission of the Foundation?

- Is the property marketable?
- Are there any undue restrictions on the use, display, or sale of the property?
- Are there any carrying costs for the property?

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The Gift Acceptance Committee of the Foundation shall make the final determination on the acceptance of other tangible property gifts.

**3. Bequests:** Donors and supporters of the Foundation shall be encouraged to make bequests to the Foundation under their wills and trusts. Such bequests shall not be recorded as gifts to the Foundation until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**4. Real Estate:** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, two officers of the Foundation shall physically inspect the property and require an initial environmental review of the property to insure that the property is not contaminated with environmental damage. Environmental inspection forms are attached as an appendix to this document. In the event that the initial inspection reveals a potential problem, the Foundation shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be an expense of the donor.

Where appropriate, a title search shall be obtained by the Foundation prior to the acceptance of the real property gift. The cost of this title search shall generally be an expense of the donor.

Prior to acceptance of the real property, the gift shall be approved by the Gift Acceptance Committee of the Foundation and by the Foundation's legal counsel. Criteria for acceptance of the property shall include:

- Is the property useful for the purposes of the Foundation?
- Is the property marketable?
- Are there any restrictions, reservations, easements, liens, or other limitations associated with the property?
- Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
- Does the environmental audit reflect that the property is not damaged?

**5. Life Insurance:** The Foundation must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, the Foundation will include the entire amount of the additional premium payment as a gift in the year that it is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Foundation may:

- continue to pay the premiums,
- convert the policy to paid up insurance, or
- surrender the policy for its current cash value.

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**6. Charitable Gift Annuities:** The Foundation may offer irrevocable charitable gift annuities. The minimum gift for funding shall be \$20,000. The Foundation may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity. Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Foundation may approve exceptions to this payment schedule.

The Foundation will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. The Foundation may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5 year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the Foundation approves the arrangement.

Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to the Foundation's general endowment funds, or to such specific fund as designated by the donor.

**7. Charitable Remainder Trusts:** The Foundation may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Gift Acceptance Committee of the Foundation. The Foundation *will not* accept appointment as Trustee of a charitable remainder trust.

**8. Charitable Lead Trusts:** the Foundation may accept a designation as income beneficiary of a charitable lead trust. The Board of the Foundation *will not* accept an appointment as Trustee of a charitable lead trust.

**9. Retirement Plan Beneficiary Designations:** Donors and supporters of the Foundation shall be encouraged to name the Foundation as beneficiary of their retirement plans. Such designations shall not be recorded as gifts to the Foundation until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**10. Qualified Charitable Distribution (QCD):** A qualified charitable distribution is money that individuals who are 70½ or older may direct from their traditional IRA to eligible charitable

organizations. The amount distributed directly to an eligible charity can be excluded from your gross income, meaning you will not be taxed on the distribution. Qualified Charitable Distributions from individual IRAs are capped at \$100,000 each year. QCD's do not receive a charitable contribution deduction for the contribution. Donors benefit by not having to recognize as income the amount contributed directly from their IRA to a qualifying charity. Donors may contribute to the following within the Community Foundation:

**a) Designated Funds**

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**b) Agency Funds**

**c) Field of Interest Funds**

**d) Scholarship Funds**

Direct distributions to Donor Advised Funds must be treated as a charitable contribution and do not qualify for a QCD.

Donors wishing to utilize the QCD benefit and contribute to multiple organizations, may contribute to the Foundation and provide a list of recipient organizations totaling the amount of the donation received plus the Foundation's administrative fee. Donors may specify when the grants should be sent as long as all grants total the amount received from the QCD.

**11. Securities:** The Foundation may accept both publicly traded securities and closely held securities.

**Publicly Traded Securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Investment Committee. In some cases marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the Gift Acceptance Committee of the Foundation in consultation with the Investment Committee as appropriate.

**Closely Held Securities:** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the Gift Acceptance Committee of the Foundation. However, gifts must be reviewed prior to acceptance to determine that:

- there are no restrictions on the security that would prevent the Foundation from ultimately converting those assets to cash,
- the security is marketable, and
- the security will not generate any undesirable tax consequences for the Foundation.

If potential problems arise on initial review of the security, further review and recommendation by

an outside professional may be sought before making a final decision on acceptance of the gift. The Gift Acceptance Committee of the Foundation and legal counsel shall make the final determination on the acceptance of closely held securities where necessary. Every effort will be made to sell non marketable securities as quickly as possible.

**12. Life Insurance Beneficiary Designations:** Donors and supporters of the Foundation shall be encouraged to name the Foundation as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to the Foundation until such time

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as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**13. Remainder Interests In Property:** the Foundation will accept a remainder interest in a personal residence, farm, or vacation subject to the provisions of paragraph 4 above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, the Foundation may use the property or reduce it to cash. Where the Foundation receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary.

**14. Oil, Gas, and Mineral Interests:** the Foundation may accept oil and gas property interests, where appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the Gift Acceptance Committee, and if necessary, by the Foundation's legal counsel. Criteria for acceptance of the property shall include:

- The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
- Is the interest marketable?
- If the interest is a working interest the organization should determine the impact on the Foundation so that it may develop a plan to minimize that impact if accepted.
- The property should undergo an environmental review to ensure that the Foundation has no current or potential exposure to environmental liability.

**15. Bargain Sales:** The Foundation may enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the Foundation. All bargain sales must be reviewed and recommended by the Gift Acceptance Committee and approved by the Board of Directors. Factors used in determining the appropriateness of the transaction include:

- The Foundation must obtain an independent appraisal substantiating the value of the property.
- If the Foundation assumes debt with the property, the debt ratio must be less than 50% of the appraised market value
- The Foundation must determine that it will use the property, or that there is a market for sale

of the property allowing sale within 12 months of receipt

- The Foundation must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.
- Donors will be asked to sign an indemnity agreement to hold the Foundation harmless for additional carrying costs.

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**16. Cryptocurrencies:** The Foundation may accept Cryptocurrencies as allowed/accepted by the merchant payment platform BitPay. For gifts of cryptocurrencies:

- The Donor agrees that, to the best of their knowledge, the cryptocurrency being gifted is not derived from unlawful sources or activities.
- A charitable gift of cryptocurrency to the Community Foundation is only complete once the cryptocurrency has been successfully delivered to the Community Foundation's cryptocurrency wallet and the Foundation has accepted the gift. Upon acceptance, the Community Foundation will provide the Donor with a receipt which substantiates the charitable gift.
- The designated fund will be credited by the Foundation with the proceeds received from the sale of the cryptocurrency, and the proceeds have been transferred to a Foundation bank account. The proceeds may not be invested or granted in programs until this process is complete.
- As a general rule, all cryptocurrencies shall be sold upon receipt unless otherwise directed by the Investment Committee.

### **Miscellaneous Provisions**

**A. Securing appraisals and legal fees for gifts to the Foundation:** It shall be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to the Foundation.

**B. Valuation of gifts for development purposes:** the Foundation shall record a gift received by the Foundation at its valuation for gift purposes on the date of gift.

**C. Responsibility for IRS Filings upon sale of gift items:** The Foundation is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the Foundation where the charitable deduction value of the item was \$5,000 or greater. The Foundation must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions may be obtained from the IRS.



**D. Acknowledgement of gift.** Acknowledgement of all gifts made to the Foundation will be in compliance with current IRS requirements including Publication 561 *Determining the Value of Donated Property* and IRS Publication 526 *Charitable Contributions* are available from the IRS.